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March 12, 2021

**VIA ECF**

The Honorable John Michael Vazquez, U.S.D.J.  
United States District Court for the District of New Jersey  
Martin Luther King Building & U.S. Courthouse  
50 Walnut Street  
Newark, New Jersey 07101

Re: *Smith & Wesson Brands, Inc. v. Gurbir S. Grewal, et al.*  
Docket No. 20-cv-19047-JMV-ESK

Judge Vazquez:

This office represents the defendants in this matter, New Jersey Attorney General Gurbir S. Grewal and the New Jersey Division of Consumer Affairs ("Defendants"). On Wednesday afternoon, Plaintiffs filed an Order to Show Cause, requesting emergent relief in the form of an injunction that would stay proceedings in a state-court action filed nearly a month ago, on February 12, 2021. That state court action seeks enforcement of an investigatory subpoena issued to Plaintiffs on October 14, 2020, which seeks documents bearing on whether Plaintiffs may have violated the New Jersey Consumer Fraud Act, and with which Plaintiffs have refused to comply.

In short, Smith and Wesson waited nearly a month, until the day before its brief in the state-court matter was due, before asking this Court to interfere. As Defendants have made clear in the motion to dismiss the Complaint, Smith and Wesson is trying to



March 12, 2021

Page 2

use this Court as an end-run around state-court enforcement proceedings, which *Younger* abstention prohibits, as detailed extensively in the State's already-filed motion to dismiss.

Plaintiffs' efforts are apparent from assertions contained in the Order to Show Cause as well as the Amended Complaint, also filed on Wednesday. According to Smith & Wesson, the extraordinary step of enjoining a state-court proceeding is necessary because Defendants purportedly sought to "punish" them by taking the decidedly ordinary step of seeking to compel compliance from a party that refuses to obey an investigatory subpoena for documents. Defendants will fully address the many flaws in the Order to Show Cause in their future filing. In the interim, Defendants write to advise the Court generally as to the reasons why emergency relief is not appropriate here and why this Court should decline to: (1) enter any order that provides for a compressed timeframe for Defendants to respond to Plaintiffs' lengthy brief in support of its application for injunctive relief; or (2) sets an expedited hearing date.

On February 12, 2021—nearly a month ago—Attorney General Grewal and the Acting Director of the New Jersey Division of Consumer Affairs filed a summary action and an Order to Show Cause in the New Jersey Superior Court, Chancery Division, in Essex County, seeking an order that requires Plaintiffs respond to the October 2020 subpoena. On February 22, 2021—eighteen days ago—New Jersey Superior Court Judge Jodi Lee Alper entered an order that: (1) required Smith & Wesson to file a response to the Order to Show Cause by yesterday, March 11, 2021; (2) required the state-court plaintiffs to file their reply by next Tuesday, March 16; and (3) scheduled a hearing on March 18, 2021. It should be noted that, before turning to this Court seeking "emergent" relief, Smith & Wesson never requested that Judge Alper stay the state-court proceedings or modify the briefing or hearing schedule in that court. Moreover, this office also understands that, despite the filing in this Court on Wednesday, Smith & Wesson still filed its response in the state-court proceedings yesterday, which included a cross-motion to dismiss or stay the action, or, in the alternative, quash the subpoena. In light of the lengthy opposition and cross-motion filed by Smith & Wesson in the state court, the state-court plaintiffs submitted today a request for a two-week extension, through March 30, 2021, for the filing of their reply brief and response to Smith & Wesson's cross-motion, with the state court to schedule argument for a date after March 30, 2021. The state-court plaintiffs requested Smith & Wesson's consent, but it had not responded by the time the state-court plaintiffs submitted their adjournment request. The request remains pending with the state court.

March 12, 2021

Page 3

Your Honor has scheduled a telephone conference with the parties on Monday, March 15, 2021, to discuss Smith & Wesson's application for a temporary restraining order. At Monday's conference, Defendants will request that the Court decline to schedule an expedited hearing and that Your Honor instead set a schedule that provides adequate time for Defendants to respond fully to the numerous arguments that Smith & Wesson raises in its application.

Thank you in advance for your kind consideration of this submission.

Respectfully submitted,

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Robert J. McGuire  
Robert J. McGuire  
Deputy Attorney General

cc: All counsel (via ECF)